

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YOU YOU XIA, PETER CLASEN and
CHULEEPORN PHUTRAKUL, individually
and on behalf of all others similarly situated,

08-cv-4415 (JGK)

**DECLARATION OF
PETER CLASEN**

Plaintiffs,

-against-

BYO CO. (USA), LTD. d/b/a EN
and REIKA YO,

Defendants.

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I, PETER CLASEN, having personal knowledge of the facts
below, declare the truth of the following under penalty of perjury:

1. I submit this Declaration in support of Plaintiffs' motion to certify this case as an FLSA collective action and as a Rule 23 class action. I currently reside at 801 E. 45th Street, Unit B, Austin, TX 78751.
2. I maintain numerous ties to New York, and am in active telephonic and email communication with Plaintiffs' counsel in this matter. Since moving to Texas shortly after the case was filed, I have actively assisted Mr. Lucas by preparing detailed case-related spreadsheets and notes for use in this case, and will continue to assist counsel in any way that I can. I am ready, willing and able to travel to New York whenever it is needed for the case.

3. I understand that serving as a class representative is an important responsibility, and that I am required to actively participate in the case, review pleadings, be deposed, testify at trial and otherwise assist and monitor the attorneys for the class. I understand that I am duty-bound to continue to monitor counsel's handling of this case.

4. I am college-educated, well-organized, and ready, willing and able to represent the interests of the class of about 55-60 past and present waitstaff employees of EN.

5. To the best of my knowledge, there are no conflicts of interest between me and any of EN's past or present waitstaff employees.

6. I, together with You You Xia and Chuleeporn "Lee" Phutrakul, have chosen the team of Scott A. Lucas and Steven M. Sack to represent the class because of their experience and success in this area of law, and the fact that Mr. Lucas and Mr. Sack were specifically recommended for this case by the Legal Referral Service of the New York City Bar Association.

7. Mr. Lucas and Mr. Sack have worked with us actively to prepare this case over the past six months, and we have had a number of face-to-face meetings, telephone calls, and email exchanges in which Mr. Lucas has thoroughly questioned us about the substance, background and

details of this case. Based on counsel's in-depth analysis and thorough preparation, I am convinced the Legal Referral Service made the right recommendation.

8. I understand that there is no guarantee of success or recovery, and I hereby affirm my responsibility to pay for litigation costs in the event that I am required to do so, as I am willing to pay my fair share.

9. I reviewed and approved the Complaint before it was filed, so I will not repeat the facts therein. Nor will I unnecessarily repeat the facts that are already set forth in the accompanying Declaration of You You Xia.

10. I am genuinely interested in helping EN's past and present waitstaff employees obtain the back tips and wages that are rightly theirs, and I ask that this Court permit this action to be maintained as a class action so that this goal can be achieved.

WHEREFORE, I respectfully ask that this Court grant Plaintiffs' motion for class certification.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 27, 2008.

Austin, Texas


PETER CLASEN